

Message

From: Nagrani, Kavita [Nagrani.Kavita@epa.gov]
Sent: 8/20/2019 8:25:17 PM
To: Able, Tony [Able.Tony@epa.gov]
CC: Bouma, Stacey [Bouma.Stacey@epa.gov]
Subject: RE: ...here's the FL pesticide too.

Hi Tony,

In the Vermont disapproval, we stated: Under EPA's regulations at 40 CFR 131.21 and 131.22, if EPA disapproves a state's new or revised water quality standard, it must "specify the changes" necessary to meet the applicable requirements of the CWA and EPA regs, and if the state does not adopt the changes, EPA shall propose and promulgate a standard including the changes. Here, there are no changes needed in Vermont's WQS b/c a provision that exempts certain activities from the need to meet WQS is not a minimum element of a state's WQS regs under the CWA. B/c an exemption provision is not necessary to meet the requirements of the CWA, it is not necessary for EPA to promulgate an alternative provision in response to this disapproval.

Per 303(c)(4), The Administrator shall promulgate any revised or new standard under this paragraph not later than ninety days after he publishes such proposed standards, ***unless prior to such promulgation, such State has adopted a revised or new water quality standard which the Administrator determines to be in accordance with this chapter.***

Personally, I would point to the above highlighted language in the statute to say that the state already has a WQS in place and so we don't need to promulgate. OGC agrees that we can point to the statutory language and has requested that we run any such language we wish to write in our disapproval through their office so they can review. That said, we also did discuss with OGC that in the past, a district court in FL has asked EPA to promulgate a strikeout to FL's statute/regs when the EPA proposed that as the "fix" in the EPA's disapproval of certain provisions of FL law. OGC looks at that case as a one-off and thinks we could still proceed with arguing that no promulgation is needed – and that in that one case, we did promulgate a strike out pursuant to court order but that we did not believe we should have had to do it in the first place.

From: Able, Tony <Able.Tony@epa.gov>
Sent: Tuesday, August 20, 2019 11:11 AM
To: Nagrani, Kavita <Nagrani.Kavita@epa.gov>
Cc: Bouma, Stacey <Bouma.Stacey@epa.gov>
Subject: RE: ...here's the FL pesticide too.

Thank you

Tony Able, Supervisory Scientist, P.G.
Chief, Water Quality Planning Branch
U.S. Environmental Protection Agency, Region 4
61 Forsyth St.
Atlanta, GA 30303

W – 404 562 9273
C – 404 821 9066

"We never know the worth of water until the well is dry."

— Thomas Fuller

From: Nagrani, Kavita <Nagrani.Kavita@epa.gov>

Sent: Tuesday, August 20, 2019 11:10 AM

To: Able, Tony <Able.Tony@epa.gov>

Cc: Bouma, Stacey <Bouma.Stacey@epa.gov>

Subject: RE: ...here's the FL pesticide too.

Hi Tony,

Yes. I agree it likely will be the topic of discussion so I'll try to put something in an email in just a few. On a conference call now but I'll send something to you shortly!

From: Able, Tony <Able.Tony@epa.gov>

Sent: Tuesday, August 20, 2019 11:02 AM

To: Nagrani, Kavita <Nagrani.Kavita@epa.gov>

Cc: Bouma, Stacey <Bouma.Stacey@epa.gov>

Subject: FW: ...here's the FL pesticide too.

Kavita: Can you help me understand why, if we disapprove, we don't have to promulgate a new standard? I think JMG and Mary will want to understand this.

Tony Able, Supervisory Scientist, P.G.
Chief, Water Quality Planning Branch
U.S. Environmental Protection Agency, Region 4
61 Forsyth St.
Atlanta, GA 30303

W – 404 562 9273

C – 404 821 9066

"We never know the worth of water until the well is dry."

— Thomas Fuller

From: Bouma, Stacey <Bouma.Stacey@epa.gov>

Sent: Friday, June 7, 2019 4:34 PM

To: Able, Tony <Able.Tony@epa.gov>

Subject: Saw your edits on the nutrient briefing sheet...here's the FL pesticide too.

I've got an email ready to go to JG once the briefing sheets are done.

Stacey L. Bouma, Chief
Water Quality Standards Section
EPA Region 4 Water Protection Division
Office (404) 562-9392, Cell (470) 633-9297

From: Able, Tony

Sent: Friday, June 7, 2019 4:09 PM

To: Cooper, Jamal <cooper.jamal@epa.gov>; Bouma, Stacey <Bouma.Stacey@epa.gov>

Subject: RE: Narrative Briefing Update

I made edits with suggestions and questions

Tony Able, Supervisory Scientist, P.G.
Chief, Water Quality Planning Branch
U.S. Environmental Protection Agency, Region 4
61 Forsyth St.
Atlanta, GA 30303

W – 404 562 9273
C – 404 821 9066

“We never know the worth of water until the well is dry.”
— Thomas Fuller

From: Cooper, Jamal
Sent: Friday, June 7, 2019 3:35 PM
To: Bouma, Stacey <Bouma.Stacey@epa.gov>
Cc: Able, Tony <Able.Tony@epa.gov>
Subject: RE: Narrative Briefing Update

Attached Briefing sheet for GA Triennial (NNC).

From: Bouma, Stacey
Sent: Friday, June 7, 2019 3:01 PM
To: Cooper, Jamal <cooper.jamal@epa.gov>
Cc: Able, Tony <Able.Tony@epa.gov>
Subject: RE: Narrative Briefing Update

Hi Jamal,

I'm planning on sending a single email that will have the 3 briefing sheets (and the HQ summary draft) rather than sending four different emails. Looking at the narrative briefing sheet now. Thanks for working on this.

From: Cooper, Jamal
Sent: Friday, June 7, 2019 2:47 PM
To: Bouma, Stacey <Bouma.Stacey@epa.gov>; Able, Tony <Able.Tony@epa.gov>
Cc: Ghosh, Mita <Ghosh.Mita@epa.gov>; Gordon, Lisa Perras <Gordon.Lisa-Perras@epa.gov>; Wetherington, Michele <Wetherington.Michele@epa.gov>
Subject: Narrative Briefing Update

Stacey/Tony,

See below for email to Jeaneanne. Let us know if you have any edits or would like to discuss.

Jeaneanne,
Attached please find the updated briefing sheet for the GA Narrative. The briefing sheet has been streamlined to clarify the basis for the recommendation for partial approval.

Thanks,

Jamal Cooper, Environmental Engineer

Water Quality Standards Section
Water Protection Division
Phone: (404) 562-9314